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and Paramount Pictures Corporation*

11 AMERICAN FEDERATION OF  
12 MUSICIANS OF THE UNITED  
STATES AND CANADA,

13 Plaintiff,

14 | v.

15 METRO-GOLDWYN-MAYER  
PICTURES INC. and  
16 PARAMOUNT PICTURES  
CORPORATION.

#### Defendants.

CASE NO. 2:17-cv-2704-GW(MRWx)

**DEFENDANTS' APPENDIX OF  
DISCOVERY IN DISPUTE IN  
SUPPORT OF MOTION TO  
COMPEL (1) DISCOVERY  
RELATING TO DISCIPLINE  
OF MUSICIAN WITNESSES;  
(2) RESPONSES TO  
INTERROGATORIES  
REGARDING AFM'S  
CONTENTIONS; (3) A RULE  
30(B)(6) DEPOSITION DATE;  
(4) DATE CERTAIN FOR  
DOCUMENT PRODUCTION; AND  
(5) PRIVILEGE LOG**

Date: February 14, 2018

Time: 9:30 a.m.

Dept.: Courtroom 550, Roybal  
Federal Building

Discovery Cutoff: March 9, 2018  
Pretrial Conference: June 21, 2018  
Jury Trial: July 10, 2018

Judge: Magistrate Judge  
Michael R. Wilner

1                   **DEFENDANTS' APPENDIX OF DISCOVERY IN DISPUTE**

2                   Defendants Metro-Goldwyn-Mayer Pictures Inc. (“MGM”) and Paramount  
 3 Pictures Corporation (“Paramount”) (collectively “Defendants”) submit the  
 4 following appendix of discovery in dispute in support of Defendants’ concurrently  
 5 filed Motion To Compel (1) Discovery Relating To Discipline Of Musician  
 6 Witnesses; (2) Responses To Interrogatories Regarding AFM’s Contentions; (3) A  
 7 Rule 30(b)(6) Deposition Date; (4) Date Certain For Document Production; and (5)  
 8 Privilege Log.

9                   **I. REQUESTS RE AFM’S DISCIPLINE OF MUSICIAN WITNESSES**

10                  **A.     MGM’S INTERROGATORY TO AFM RE DISCIPLINE**

11                  **(1)    MGM’s Interrogatory No. 10<sup>1</sup>**

12                  IDENTIFY all facts supporting YOUR contention, if any, that any PERSON  
 13 who provided services in connection with the production or scoring of BEN HUR  
 14 violated an AFM by-law, rule or policy.

15                  **AFM’s Response to Interrogatory No. 10:<sup>2</sup>**

16                  AFM objects to this Interrogatory on the grounds that, by propounding this  
 17 discovery request, MGM and its counsel have engaged in an unlawful unfair labor  
 18 practice in violation of Section 8(a)(1) of the National Labor Relations Act.  
 19 *United Nurses Ass’ns of Cal./Union of Health Care Professionals, NUHCE,*  
 20 *AFSCME v. NLRB*, 871 F.3d 767, 785-88 (9th Cir. 2017).

21                  AFM objects to this Interrogatory to the extent that it seeks information that  
 22 is irrelevant to the claims made in this case.

23                  AFM objects to this Interrogatory to the extent it calls for information  
 24 protected by the attorney-client privilege, attorney work product doctrine, or other  
 25 privilege.

26                  AFM will not respond further to this Interrogatory.

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27                  <sup>1</sup> See Declaration of Sarah Wirtz (“Wirtz Decl.”), Ex. F.

28                  <sup>2</sup> See *id.*, Ex. G.

1                   **B. MGM'S REQUESTS FOR PRODUCTION OF DOCUMENTS**  
 2                   **TO AFM RE DISCIPLINE**

3                   **(1) MGM's Request for Production No. 38<sup>3</sup>**

4                   All DOCUMENTS referring or relating to any considered, proposed or  
 5 actual action, proceedings, or discipline by the AFM with respect to any  
 6 MUSICIAN, including but not limited to, any investigation, penalty, warning,  
 7 suspension, probation, censure or fine. [“MUSICIAN” is limited to “any PERSON  
 8 who YOU contend provided services of the type covered under the AGREEMENT  
 9 on BEN HUR.”]

10                  **AFM's Response to Request for Production No. 38:<sup>4</sup>**

11                  AFM objects to the Request on the grounds that, by propounding the  
 12 request, Defendants and their counsel have engaged in unlawful, unfair labor  
 13 practices in violation of the National Labor Relations Act. *United Nurses Ass'ns of*  
 14 *Cal./Union of Health Care Professionals, NUHHCCE, AFSCME v. NLRB*, 871 F.3d  
 15 767, 785-88 (9th Cir. 2017).

16                  AFM objects to the Request to the extent it calls for production of  
 17 documents protected by the attorney-client privilege or the attorney work product  
 18 doctrine.

19                  AFM objects to the Request to the extent it calls for production of  
 20 documents privileged from disclosure under Section 7 of the National Labor  
 21 Relations Act, 29 U.S.C. § 157.

22                  AFM objects to the Request on the grounds that it is intended for the  
 23 purpose of harassment.

24                  AFM objects to the Request on the grounds that it seeks information that is  
 25 not relevant to the claims made in this case.

26  
 27                  

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<sup>3</sup> See *id.*, Ex. H.

28                  <sup>4</sup> See *id.*, Ex. I.

1           Subject to and without waiving the foregoing objections, AFM responds as  
 2 follows: AFM will not further respond to this Request.

3           **(2) MGM's Request for Production No. 39<sup>5</sup>**

4           All DOCUMENTS referring or relating to any allegation by YOU that any  
 5 MUSICIAN violated any provision of the AFM by-laws or other AFM agreement,  
 6 policy, procedure, or rule. [“MUSICIAN” is limited to “any PERSON who YOU  
 7 contend provided services of the type covered under the AGREEMENT on BEN  
 8 HUR.”]

9           **AFM's Response to Request for Production No. 39:<sup>6</sup>**

10          AFM objects to the Request on the grounds that, by propounding the  
 11 request, Defendants and their counsel have engaged in unlawful, unfair labor  
 12 practices in violation of the National Labor Relations Act. *United Nurses Ass’ns of*  
 13 *Cal./Union of Health Care Professionals, NUHHC, AFSCME v. NLRB*, 871 F.3d  
 14 767, 785-88 (9th Cir. 2017).

15          AFM objects to the Request to the extent it calls for production of  
 16 documents protected by the attorney-client privilege or the attorney work product  
 17 doctrine.

18          AFM objects to the Request to the extent it calls for production of  
 19 documents privileged from disclosure under Section 7 of the National Labor  
 20 Relations Act, 29 U.S.C. § 157.

21          AFM objects to the Request on the grounds that it is intended for the  
 22 purpose of harassment.

23          AFM objects to the Request on the grounds that it seeks information that is  
 24 not relevant to the claims made in this case.

25          Subject to and without waiving the foregoing objections, AFM responds as  
 26 follows: AFM will not further respond to this Request.

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27          <sup>5</sup> See *id.*, Ex. H.

28          <sup>6</sup> See *id.*, Ex. I.

**(3) MGM's Request for Production No. 40<sup>7</sup>**

All agreements, policies, procedures, rules or by-laws that you allege were violated by any MUSICIAN. [“MUSICIAN” is limited to “any PERSON who YOU contend provided services of the type covered under the AGREEMENT on BEN HUR.”]

## **AFM's Response to Request for Production No. 40:<sup>8</sup>**

AFM objects to the Request on the grounds that, by propounding the request, Defendants and their counsel have engaged in unlawful, unfair labor practices in violation of the National Labor Relations Act. *United Nurses Ass’ns of Cal./Union of Health Care Professionals, NUHHCE, AFSCME v. NLRB*, 871 F.3d 767, 785-88 (9th Cir. 2017).

AFM objects to the Request to the extent it calls for production of documents protected by the attorney-client privilege or the attorney work product doctrine.

AFM objects to the Request to the extent it calls for production of documents privileged from disclosure under Section 7 of the National Labor Relations Act, 29 U.S.C. § 157.

AFM objects to the Request on the grounds that it is intended for the purpose of harassment.

AFM objects to the Request on the grounds that it seeks information that is not relevant to the claims made in this case.

Subject to and without waiving the foregoing objections, AFM responds as follows: AFM will not further respond to this Request.

<sup>7</sup> See *id.*, Ex. H.

<sup>8</sup> See *id.*, Ex. I.

1           **C. DEFENDANTS' FRCP 30(b)(6) DEPOSITION NOTICE TO**  
2           **AFM**

3           **(1) Matters of Examination 21-22<sup>9</sup>**

4           21. Any complaint or disciplinary action or proceedings initiated by YOU  
5 against any person for work performed in connection with the scoring of BEN  
6 HUR.

7           22. Any considered or proposed disciplinary action or proceedings by  
8 YOU against any person for work performed in connection with the scoring of  
9 BEN HUR..

10          **AFM's Response to Matters of Examination 21-22:**

11          [By informal email from AFM's counsel:]<sup>10</sup> [AFM] is unable to present a  
12 witness on most all matters of examination identified in the notice.

13          [By letter from AFM's counsel after the parties meet and conferred:]<sup>11</sup> With  
14 respect to Matters for Examination [21-22], AFM objects on the grounds of  
15 overbreadth, irrelevance, and because they call for disclosure of confidential union  
16 activity and communications. *United Nurses Ass'ns of Cal.*, 871 F.3d at 785-88.  
17 AFM will not designate a witness to testify on these Matters.

18          **D. RAYMOND HAIR 1/23/2018 DEPOSITION TESTIMONY<sup>12</sup>**

19           **(1) Questions Witness Instructed Not To Answer On Grounds**  
20           **Of "Confidential Section 7 Union Activity"**

21          **20:13-20:23:**

22          **Q. Do you have any duties relative to the discipline of federation**  
23 **members?**

26          <sup>9</sup> See *id.*, Ex. E.

27          <sup>10</sup> See *id.*, Ex. N.

28          <sup>11</sup> See *id.*, Ex. P.

<sup>12</sup> See *id.*, Ex. Q.

1 Ms. Garner: Objection. Attorney-client privilege and confidential union  
2 activity.

3 The Witness: Do I answer it or not?

4 Ms. Garner: Don't answer.

5 Mr. Levin: Okay. Can we stipulate, counsel, that if you're raising privilege,  
6 that the witness is going to refuse to answer at your direction?

7 Ms. Garner: So stipulated.

8 **20:25-21:7:**

9 **Q. What are your duties relative to the discipline of federation  
10 members?**

11 Ms. Garner: Objection. Same objection. Instructing the witness not to  
12 answer.

13 By Mr. Levin:

14 **Q. For how long have you held duties relative to the discipline of  
15 federation members?**

16 Ms. Garner: Same objection.

17 **49:12-50:7:**

18 **Q. Do you know whether any of the musicians who worked on the score  
19 have communicated to the AFM that it is not authorized to seek recovery on  
20 their behalf?**

21 A. I --

22 Ms. Garner: Objection.

23 The Witness: I don't.

24 Ms. Garner: Objection. Don't answer.

25 The Witness: Okay.

26 Ms. Garner: On the basis of confidential Section 7 activity.

27 By Mr. Levin:

28

1           **Q. Have any of the musicians who worked on the score communicated**  
2           **to the AFM that they do not support the AFM's lawsuit?**

3           Ms. Garner: Objection. Same objection. Confidential Section 7 activity.

4           Mr. Levin: Are you instructing him not to answer?

5           Ms. Garner: I'm instructing him not to answer, yes.

6           **130:3-14:**

7           Q. Are you aware of someone named Mark Graham?

8           A. Yes.

9           Q. Do you understand that he is somehow affiliated with a company called  
10 Belvedere Music?

11          A. I did not know.

12          **Q. Is Mark Graham a member of the AFM?**

13          Ms. Garner: Objection. Don't answer. Objection. Section 7 protected  
14 union activity. I'm instructing the witness not to answer.

15          **132:6-134:7:**

16          **Q. Now, are you aware that he [Mark Graham] was fined for his work**  
17 **on Ben Hur?**

18          A. Yes.

19          **Q. And what do you know about that?**

20          Ms. Garner: Objection. Don't answer.

21          Mr. Levin: What's the basis for you directing him not to answer?

22          Ms. Garner: Section 7, protected union activity.

23          By Mr. Levin:

24          **Q. When was Mr. Graham first notified of the possibility that he would**  
25 **be disciplined for his work on Ben Hur?**

26          A. I don't know.

27          Ms. Garner: Objection. Same -- same objection.

28          By Mr. Levin:

1           **Q. How much was Mr. Graham fined?**

2           Ms. Garner: Objection. Same objection.

3           By Mr. Levin:

4           **Q. What was the basis for determining the size of the fine against Mr.**  
5 **Graham?**

6           Ms. Garner: Objection. Section 7, union activity.

7           Mr. Levin: Right. Just to be clear, when you're objecting based on the  
8 National Labor Relations Act, you're also directing him not to answer; correct?

9           Ms. Garner: Correct.

10          Mr. Levin: And he is refusing to answer at your direction; correct?

11          Ms. Garner: Correct.

12          Mr. Levin: And you've stipulated to that; correct.

13          Ms. Garner: correct.

14          By Mr. Levin:

15          **Q. Was the entire amount of the fine issued against Mr. Graham**  
16 **collected from him?**

17          Ms. Garner: Objection. Same objection.

18          By Mr. Levin:

19          **Q. Was some portion of the fine against Mr. Graham being held in**  
20 **abeyance?**

21          Ms. Garner: Same objection.

22          Mr. Levin: And same direction to him?

23          Ms. Garner: Same direction.

24          By Mr. Levin:

25          **Q. Did the AFM agree that if Mr. Graham engaged in certain conduct**  
26 **or comported his behavior in a certain way, that it would waive a portion of**  
27 **the fine?**

28          Ms. Garner: Same objection.

1           **134:18-137:14:**

2           **Q. Who made the decision to fine Mr. Graham?**

3           Ms. Garner: Objection. Section 7, union activity. Don't answer.

4           By Mr. Levin:

5           **Q. Who made the decision to hold in abeyance a part of the fine against**  
6           **Mr. Graham?**

7           Ms. Garner: Same objection

8           Mr. Levin: Same direction?

9           Ms. Garner: Same direction.

10          By Mr. Levin:

11          **Q. Did you personally participate in the decision either to fine Mr.**  
12          **Graham or to hold part of the fine in abeyance?**

13          Ms. Garner: Same objection. Same direction.

14          By Mr. Levin:

15          **Q. Now, Mr. Graham was fined under Article 15, Section 1(a) of the**  
16          **bylaws; correct?**

17          Ms. Garner: Same objection. Same direction.

18          By Mr. Levin:

19          **Q. Can you please explain why it was that Mr. Graham was fined**  
20          **under Article Section -- strike that. Can you please explain why it was that**  
21          **Mr. Graham was find under Article 15, Section 1(a) of the bylaws?**

22          Ms. Garner: Same objection. Same direction.

23          By Mr. Levin:

24          **Q. Where in the bylaws does it state the dollar range of the fine that**  
25          **could have been levied against Mr. Graham?**

26          Ms. Garner: Objection. The bylaws speak for themselves. And in addition,  
27          I object to the extent that it calls for confidential Section 7 privileged information.

1       Mr. Levin: Are you directing him not to answer where it states in the  
2 bylaws the fine? Are you directing him not to answer?

3       Ms. Garner: Yes.

4       By Mr. Levin:

5       **Q. Where in the bylaws does it state that some of a fine can be held in  
6 abeyance?**

7       Ms. Garner: Same objection.

8       Mr. Levin: Same direction?

9       Ms. Garner: Same direction.

10      By Mr. Levin:

11      **Q. Other than Mr. Graham, has the union disciplined any other Ben  
12 Hur musician?**

13      Ms. Garner: Same objection. Same direction.

14      By Mr. Levin:

15      **Q. Has the union communicated to any musician who worked on the  
16 score of Ben Hur that it was considering disciplining them?**

17      Ms. Garner: Same objection. Same direction.

18      By Mr. Levin:

19      **Q. Has the union threatened any of the musicians who worked on Ben  
20 Hur that if they do not cooperate with the union, they will receive a fine?**

21      Ms. Garner: Same objection. Same direction.

22      By Mr. Levin:

23      **Q. Has the union threatened any of the musicians who worked on Ben  
24 Hur that if they don't testify in a particular fashion in this case, that they will  
25 face discipline?**

26      Ms. Garner: I object to the -- same objection. Same direction.

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1       **II. MGM'S INTERROGATORIES TO AFM RE AFM'S CONTENTIONS**

2       **A.     MGM'S Interrogatory No. 4<sup>13</sup>**

3           IDENTIFY all facts supporting YOUR contention, if any, that MGM  
4 participated in or was involved with decisions regarding the scoring of BEN HUR.

5       **AFM's Response to Interrogatory No. 4:<sup>14</sup>**

6           AFM objects to this Interrogatory on the grounds that the terms "participated  
7 in," "involved with," and "decisions regarding" are vague and ambiguous.

8           AFM objects to this Interrogatory on the grounds that it seeks information  
9 that is irrelevant to the claims made in this case.

10          AFM objects to this Interrogatory to the extent it calls for information that is  
11 more easily, uniquely, or equally available to MGM, and thus imposes an undue  
12 burden on AFM.

13          AFM objects to this Interrogatory, consistent with Fed. R. Civ. P. 33(a)(2),  
14 to the extent it seeks "all facts" at this time, when discovery in this case has not  
15 been completed and AFM's investigation is continuing. AFM reserves the right to  
16 supplement its answer to this Interrogatory as it obtains additional facts through the  
17 discovery process and further investigation.

18          AFM objects to this Interrogatory to the extent it calls for information  
19 disclosed in this action pursuant to a designation as "HIGHLY CONFIDENTIAL–  
20 ATTORNEYS' EYES ONLY" under the parties' Stipulated Protective Order.

21          AFM objects to this Interrogatory to the extent it calls for information  
22 protected by the attorney-client privilege, attorney work product doctrine, or other  
23 privilege.

24          Subject to and without waiving its objections, AFM answers as follows:

25          AFM states that MGM, by and through its wholly-owned subsidiary BH  
26 PRODUCTIONS, is a producer of BEN HUR subject to the terms of the

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27       <sup>13</sup> See *id.*, Ex. F.

28       <sup>14</sup> See *id.*, Ex. G.

1 Agreement, including the conditions and limitations imposed on a producer's right  
 2 to subcontract work in covered job classifications to a subcontractor. Whether  
 3 MGM "participated in or was involved with decisions regarding the scoring of  
 4 BEN HUR" is irrelevant to its obligation to ensure compliance with the minimum  
 5 compensation provisions of the Agreement when work otherwise covered by the  
 6 Agreement is subcontracted to a subcontractor. MGM, by and through BH  
 7 PRODUCTIONS, executed the composer agreement that provided for the  
 8 engagement of musicians for scoring. AFM does not concede or contend that  
 9 MGM's direct participation or involvement in the scoring is relevant or material to  
 10 its claims in this case.

11 AFM does not intend this answer to be, nor should this answer be construed  
 12 as, a complete and final answer to Defendant's Interrogatory No. 4. AFM  
 13 anticipates obtaining additional facts supporting its claim through the discovery  
 14 process and AFM's continuing investigation. AFM will supplement this answer to  
 15 the extent required by Rule 26(e)(1) of the Federal Rules of Civil Procedure.

16 **B. MGM's Interrogatory No. 5<sup>15</sup>**

17 IDENTIFY all facts supporting YOUR contention, if any, that BH  
 18 PRODUCTIONS participated in or was involved with decisions regarding the  
 19 scoring of BEN HUR.

20 **AFM's Response to Interrogatory No. 5:<sup>16</sup>**

21 AFM objects to this Interrogatory on the grounds that the terms "participated  
 22 in," "involved with," and "decisions regarding" are vague and ambiguous.

23 AFM objects to this Interrogatory on the grounds that it seeks information  
 24 that is irrelevant to the claims made in this case.

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 27 <sup>15</sup> See *id.*, Ex. F.  
 28 <sup>16</sup> See *id.*, Ex. G.

1 AFM objects to this Interrogatory to the extent it calls for information that is  
2 more easily, uniquely, or equally available to MGM and/or BH PRODUCTIONS,  
3 and thus imposes an undue burden on AFM.

4 AFM objects to this Interrogatory, consistent with Fed. R. Civ. P. 33(a)(2),  
5 to the extent it seeks “all facts” at this time, when discovery in this case has not  
6 been completed and AFM’s investigation is continuing. AFM reserves the right to  
7 supplement its answer to Interrogatory No. 4 as it obtains additional facts through  
8 the discovery process and further investigation.

9 AFM objects to this Interrogatory to the extent it calls for information  
10 disclosed in this action pursuant to a designation as “HIGHLY CONFIDENTIAL–  
11 ATTORNEYS’ EYES ONLY” under the parties’ Stipulated Protective Order.

12 AFM objects to this Interrogatory to the extent it calls for information  
13 protected by the attorney-client privilege, attorney work product doctrine, or other  
14 privilege.

15 Subject to and without waiving its objections, AFM answers as follows:

16 AFM alleges that MGM, by and through its wholly-owned subsidiary BH  
17 PRODUCTIONS, is a producer of BEN HUR subject to the terms of the  
18 Agreement, including the conditions and limitations imposed on a producer’s right  
19 to subcontract work in covered job classifications to a subcontractor. Whether BH  
20 PRODUCTIONS “participated in or was involved with decisions regarding the  
21 scoring of BEN HUR” is irrelevant to Defendants’ obligation to ensure compliance  
22 with the minimum compensation provisions of the Agreement when work  
23 otherwise covered by the Agreement is subcontracted to a subcontractor. BH  
24 PRODUCTIONS, on behalf of MGM, executed the composer agreement that  
25 provided for the engagement of musicians for scoring. AFM does not concede or  
26 contend that BH PRODUCTIONS’S direct participation or involvement in the  
27 scoring is relevant or material to its claims in this case.

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1 AFM does not intend this answer to be, nor should this answer be construed  
 2 as, a complete and final answer to Defendant's Interrogatory No. 5. AFM  
 3 anticipates obtaining additional facts supporting its claim through the discovery  
 4 process and AFM's continuing investigation. AFM will supplement this answer to  
 5 the extent required by Rule 26(e)(1) of the Federal Rules of Civil Procedure.

6 **C. MGM's Interrogatory No. 7<sup>17</sup>**

7 IDENTIFY all facts supporting YOUR contention, if any, that MGM  
 8 employed any individuals who worked on the score of BEN HUR.

9 **AFM's Response to Interrogatory No. 7:<sup>18</sup>**

10 AFM objects to this Interrogatory on the grounds that the term "employed"  
 11 is vague and ambiguous.

12 AFM objects to this Interrogatory to the extent the phrase "MGM employed  
 13 any individuals" seeks a legal conclusion.

14 AFM objects to this Interrogatory on the grounds that the phrase "any  
 15 individuals who worked on the score of BEN HUR" is overly broad and goes  
 16 beyond the scope of the claims and allegations made in the COMPLAINT.

17 AFM objects to this Interrogatory on the grounds that it seeks information  
 18 that is irrelevant to the claims made in this case.

19 AFM objects to this Interrogatory to the extent it calls for information that is  
 20 more easily, uniquely, or equally available to MGM, and thus imposes an undue  
 21 burden on AFM.

22 AFM objects to this Interrogatory, consistent with Fed. R. Civ. P. 33(a)(2),  
 23 to the extent it seeks "all facts" at this time, when discovery in this case has not  
 24 been completed and AFM's investigation is continuing. AFM reserves the right to  
 25 supplement its answer to this Interrogatory as it obtains additional facts through the  
 26 discovery process and further investigation.

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27 <sup>17</sup> See *id.*, Ex. F.

28 <sup>18</sup> See *id.*, Ex. G.

1 AFM objects to this Interrogatory to the extent it calls for information  
2 disclosed in this action pursuant to a designation as “HIGHLY CONFIDENTIAL–  
3 ATTORNEYS’ EYES ONLY” under the parties’ Stipulated Protective Order.

4 AFM objects to this Interrogatory to the extent it calls for information  
5 protected by the attorney-client privilege, attorney work product doctrine, or other  
6 privilege.

7 Subject to and without waiving its objections, AFM answers as follows:

8 AFM alleges that MGM is a producer of BEN HUR subject to the terms of  
9 the Agreement, including the conditions and limitations imposed on a producer’s  
10 right to subcontract work in covered job classifications to a subcontractor.  
11 Whether MGM “employed any individuals who worked on the score of BEN  
12 HUR” is irrelevant to its obligation to ensure compliance with the minimum  
13 compensation provisions of the Agreement when work otherwise covered by the  
14 Agreement is subcontracted to a subcontractor. MGM’s wholly-owned subsidiary  
15 BH PRODUCTIONS, on behalf of MGM, executed the composer agreement that  
16 provided for the engagement of musicians for scoring BEN HUR. AFM does not  
17 contend or concede that MGM’s direct employment of any individual is material to  
18 its claims in this case.

19 AFM does not intend this answer to be, nor should this answer be construed  
20 as, a complete and final answer to Defendant’s Interrogatory No. 7. AFM  
21 anticipates obtaining additional facts supporting its claims through the discovery  
22 process and AFM’s continuing investigation. AFM will supplement this answer to  
23 the extent required by Rule 26(e)(1) of the Federal Rules of Civil Procedure.

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1           **D. MGM's Interrogatory No. 8<sup>19</sup>**

2           IDENTIFY all facts supporting YOUR contention, if any, that BH  
3 PRODUCTIONS employed any individuals who worked on the score of BEN  
4 HUR.

5           **AFM's Response to Interrogatory No. 8:<sup>20</sup>**

6           AFM objects to this Interrogatory on the grounds that the term "employed"  
7 is vague and ambiguous.

8           AFM objects to this Interrogatory to the extent the phrase "BH  
9 PRODUCTIONS employed" seeks a legal conclusion.

10          AFM objects to this Interrogatory on the grounds that the phrase "any  
11 individuals who worked on the score of BEN HUR" is overly broad and goes  
12 beyond the scope of the claims and allegations made in the COMPLAINT.

13          AFM objects to this Interrogatory on the grounds that it seeks information  
14 that is irrelevant to the claims made in this case.

15          AFM objects to this Interrogatory to the extent it calls for information that is  
16 more easily, uniquely, or equally available to MGM and/or BH PRODUCTIONS,  
17 and thus imposes an undue burden on AFM.

18          AFM objects to this Interrogatory, consistent with Fed. R. Civ. P. 33(a)(2),  
19 to the extent it seeks "all facts" at this time, when discovery in this case has not  
20 been completed and AFM's investigation is continuing. AFM reserves the right to  
21 supplement its answer to this Interrogatory as it obtains additional facts through the  
22 discovery process and further investigation.

23          AFM objects to this Interrogatory to the extent it calls for information  
24 disclosed in this action pursuant to a designation as "HIGHLY CONFIDENTIAL-  
25 ATTORNEYS' EYES ONLY" under the parties' Stipulated Protective Order.

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<sup>19</sup> See *id.*, Ex. F.

28          <sup>20</sup> See *id.*, Ex. G.

1 AFM objects to this Interrogatory to the extent it calls for information  
2 protected by the attorney-client privilege, attorney work product doctrine, or other  
3 privilege.

4 Subject to and without waiving its objections, AFM answers as follows:

5 AFM states that MGM, by and through its wholly-owned subsidiary BH  
6 PRODUCTIONS, is a producer of BEN HUR subject to the terms of the  
7 Agreement, including the conditions and limitations imposed on a producer's right  
8 to subcontract work in covered job classifications to a subcontractor. Whether BH  
9 PRODUCTIONS "employed any individuals who worked on the score of BEN  
10 HUR" is irrelevant to Defendants' obligation to ensure compliance with the  
11 minimum compensation provisions of the Agreement when work otherwise  
12 covered by the Agreement is subcontracted to a subcontractor. BH  
13 PRODUCTIONS, on behalf of MGM, executed the composer agreement that  
14 provided, directly or indirectly, for the engagement of musicians for scoring BEN  
15 HUR. AFM does not contend or concede that BH PRODUCTIONS'S direct  
16 employment of any individual is material to its claims in this case.

17 AFM does not intend this answer to be, nor should this answer be construed  
18 as, a complete and final answer to Defendant's Interrogatory No. 8. AFM  
19 anticipates obtaining additional facts supporting its claims through the discovery  
20 process and AFM's continuing investigation. AFM will supplement this answer to  
21 the extent required by Rule 26(e)(1) of the Federal Rules of Civil Procedure.

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1     **III. PARAMOUNT'S INTERROGATORIES TO AFM RE AFM'S**  
 2     **CONTENTIONS**

3       **A. Paramount's Interrogatory No. 3<sup>21</sup>**

4       IDENTIFY all facts supporting YOUR contention, if any, that  
 5     PARAMOUNT participated in or was involved with decisions regarding the  
 6     scoring of BEN HUR.

7       **AFM's Response to Interrogatory No. 3:<sup>22</sup>**

8       AFM objects to Defendant's Interrogatory No. 3 on the grounds that the  
 9     terms "participated in," "involved with," and "decisions regarding" are vague,  
 10    ambiguous, overly broad, and/or irrelevant to the claims made in this case. AFM  
 11    further objects to the interrogatory to the extent it calls for information that is more  
 12    easily or uniquely available to Paramount, and thus imposes an undue burden on  
 13    AFM. AFM further objects, consistent with Fed. R. Civ. P. 33(a)(2), to the extent  
 14    the interrogatory seeks "all facts" at this time, when discovery in this case has not  
 15    been completed and AFM's investigation is continuing. AFM further objects to  
 16    the extent the interrogatory calls for information disclosed in this action pursuant  
 17    to a designation as "HIGHLY CONFIDENTIAL-ATTORNEYS' EYES ONLY"  
 18    under the parties' Stipulated Protective Order. AFM further objects to the extent  
 19    the interrogatory calls for information protected by the attorney-client privilege,  
 20    attorney work product doctrine, or other privilege. AFM reserves the right to  
 21    supplement its answer to Interrogatory No. 3 as it obtains additional facts through  
 22    the discovery process and further investigation. Subject to and without waiving its  
 23    objections, AFM answers as follows:

24       AFM alleges that Paramount is a producer of BEN HUR subject to the terms  
 25    of the Agreement, including the conditions and limitations imposed on a  
 26    producer's right to subcontract work in covered job classifications to a

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27       <sup>21</sup> See *id.*, Ex. J.

28       <sup>22</sup> See *id.*, Ex. K.

1 subcontractor. Whether Paramount “participated in or was involved with decisions  
 2 regarding the scoring of BEN HUR” is irrelevant to its obligation to ensure  
 3 compliance with the minimum compensation provisions of the Agreement when  
 4 work otherwise covered by the Agreement is subcontracted to a subcontractor.

5 AFM further answers that it is engaged in ongoing discovery and  
 6 investigation of Paramount’s participation in the decisions regarding BEN HUR.

7 AFM does not intend this answer to be, nor should this answer be construed  
 8 as, a complete and final answer to Defendant’s Interrogatory No. 3. AFM  
 9 anticipates obtaining additional facts supporting its claim through the discovery  
 10 process and AFM’s continuing investigation. AFM will supplement this answer to  
 11 the extent required by Rule 26(e)(1) of the Federal Rules of Civil Procedure.

12 **B. Paramount’s Interrogatory No. 5<sup>23</sup>**

13 IDENTIFY all facts supporting YOUR contention, if any, that  
 14 PARAMOUNT employed any individuals who worked on the score of BEN HUR.

15 **AFM’s Response to Interrogatory No. 5<sup>24</sup>**

16 AFM objects to Defendant’s Interrogatory No. 5 on the grounds that it is  
 17 irrelevant to the claims in this action and is therefore unduly burdensome. AFM  
 18 further objects to the extent the interrogatory calls for information more easily or  
 19 uniquely available to Paramount. AFM further objects to the interrogatory on the  
 20 basis that the meaning of “employed” is vague, ambiguous, and therefore  
 21 misleading. AFM further objects, consistent with Fed. R. Civ. P. 33(a)(2), to the  
 22 extent the interrogatory seeks “all facts” at this time, when discovery in this case  
 23 has not been completed and AFM’s investigation is continuing. AFM further  
 24 objects to the extent the interrogatory calls for information designated as  
 25 “HIGHLY CONFIDENTIAL-ATTORNEYS’ EYES ONLY” under the parties’  
 26 Stipulated Protective Order. AFM further objects to the extent the interrogatory

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27 <sup>23</sup> See *id.*, Ex. J.

28 <sup>24</sup> See *id.*, Ex. K.

1 calls for information protected by the attorney-client privilege, attorney work  
2 product doctrine, or other privilege. AFM reserves the right to supplement its  
3 answer to Interrogatory No. 5 as it obtains additional facts through the discovery  
4 process and further investigation. Subject to and without waiving its objections,  
5 AFM answers as follows:

6 AFM alleges that Paramount is a producer of BEN HUR subject to the terms  
7 of the Agreement, including the conditions and limitations imposed on a  
8 producer's right to subcontract work in covered job classifications to a  
9 subcontractor. AFM also alleges that this case involves the subcontracting of work  
10 in covered job classifications. Thus, whether or not Defendant "employed" any  
11 individuals who worked on the score of BEN HUR is irrelevant to its obligation to  
12 ensure compliance with the minimum compensation provisions of the Agreement  
13 when work in covered job classifications is subcontracted to a subcontractor.

14 AFM does not intend this answer to be, nor should this answer be construed  
15 as, a complete and final answer to Defendant's Interrogatory No. 5. AFM  
16 anticipates obtaining additional facts supporting its claim through the discovery  
17 process and AFM's continuing investigation. AFM will supplement this answer to  
18 the extent required by Rule 26(e)(1) of the Federal Rules of Civil Procedure.

19  
20 DATED: FEBRUARY 2, 2018 Respectfully submitted,

21 ADAM LEVIN  
22 SARAH WIRTZ  
22 MITCHELL SILBERBERG & KNUPP LLP

23 By: /s/Adam Levin  
24 Adam Levin  
25 Attorneys for Defendants  
25 Metro-Goldwyn-Mayer Pictures Inc. and  
26 Paramount Pictures Corporation  
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